

**REMARKS:**

Applicant has carefully studied the Final Examiner's Action and all references cited therein. The amendment appearing above and these explanatory remarks are believed to be fully responsive to the Action. Accordingly, this important patent application is now believed to be in condition for allowance.

Applicant responds to the outstanding Action by centered headings that correspond to the centered headings employed by the Office, to ensure full response on the merits to each finding of the Office.

**Finality of the Office Action**

Applicant respectfully requests withdrawal of the finality of the Office Action mailed February 22, 2005. Applicant does not believe that the Applicant's amendment received by the Office on October 28, 2004 necessitated the new ground of rejection presented in this Final Office Action. As such, Applicant believes that the finality is premature and requests that the finality be withdrawn.

Applicant presented an amendment on May 13, 2004, in response to a First Office Action mailed on April 6, 2004. The amendment was resubmitted to the Office on October 28, 2004. The Office responded with a Final Office Action on February 22, 2005.

The amendment originally presented to the Office on May 13, 2004, included the following amendment to Claim 1:

Claim 1 (Currently Amended) A computer program product for program level message traffic interception comprising:

a computer-readable medium;

a protocol independent API core module stored on the medium, the API core module having an array of predetermined rules for intercepted message traffic; and

an interface communication emulator module communicatively coupling protocol-specific program level message traffic to the API core.

As such, the amendment presented the addition of the term "program level" to the preamble and to the claim elements. The amendment was successful in overcoming the rejections presented in the First Office Action.

In the present Final Office Action, the Office states that the Applicant's amendment as described above necessitated the new ground of rejection, and therefore the Action was made Final. However, it is apparent from the comments by the Office presented in this Final Office Action that the amendment was not considered and therefore could not have necessitated the new ground of rejection.

More specifically, the Office's analysis of independent Claim 1 states that Hite teaches, "an interface communication emulator module communicatively coupling protocol specific message traffic to the API core (see col. 1, lines 56-58, the received messages are provided with program specific protocol)". From the reading of this analysis, it is clear that the Office did not address the amendment adding the term "program level" to this element of Claim 1. The Office has completely ignored the amendment adding the term "program level" from the analysis of the claim. The Office has not addressed the amended language in the analysis of the elements of the claim, or in the preamble of the claim in view of the Hite reference.

For a determination to be made that the Applicant's amendment necessitated the new ground of rejection, the amendment must be such that the Office requires a new search of the prior art to be performed. In this specific case, if the Office felt that the addition of the term "program level" to the claim language made it necessary to perform a new search, it would seem reasonable that the term "program level" would be specifically addressed with regard to the new reference to establish the grounds for a Final Rejection. The Office has not identified anywhere in the Hite reference where the claim language, including the amendment, is described and as such, the Office has not established grounds to make a Final Rejection.

For the reasons described above, Applicant requests that the finality of the Office Action be lifted and that the Applicant be given a fair chance to amend the claims and argue against the newly cited Hite reference.

**Claim Rejections – 35 U.S.C. § 102**

Applicant acknowledges the quotation of 35 U.S.C § 102(e).

Claims 1-30 stand rejected under 35 U.S.C § 102(e) as being anticipated by Hite et al., (U.S. Patent No. 6,763,040). Applicant respectfully traverses the finding of the Office.

Regarding claim 1, the Office states that Hite teaches a computer program product for message traffic interception comprising, a computer readable medium, as shown by Hite at col. 6 lines 4-47, a protocol independent API core module store on the medium, the API core module having an array of predetermined rules for intercepted message traffic, as shown by Hite at col. 6, lines 48-67 and TABLE A, and an interface communication emulator module communicatively coupling protocol-specific message traffic to the API core, as shown by Hite at Col. 1, lines 55-58). The Applicant respectfully traverses the finding of the Office.

Claim 1 of the present invention includes a protocol independent API core module stored on a computer-readable medium. The API described by Hite is not protocol independent. As described by Hite at col. 1 and col. 11, a communication protocol is provided comprising a packet protocol having a protocol field for indicating the type of protocol, a length of data field for listing the length in bytes of the data field, a data field containing sub protocol data, and a checksum for determining the integrity of the packet. As such, the API described by Hite et al. is not protocol independent, but instead is dependent upon the specific protocol dictated by the internet appliance or the control area network selected. Additionally, the Office cites TABLE A of Hite as describing an array of predetermined rules for intercepted message traffic as claimed by the present invention. However, TABLE A is a list of exemplary messages that are valid between a device manager and a device master. These exemplary valid messages are not equivalent to the array of predetermined rules for intercepted message traffic as disclosed and claimed by the present invention. As such, Hite does not describe the API core module having an array of predetermined rules for intercepted message traffic as disclosed and claimed by the present invention.

Claim 1 of the present invention includes an interface communication emulator module communicatively coupling the protocol-specific program level message traffic to the API core.

As disclosed at paragraph [0041] and shown in Fig. 2, the interface communication emulator module is a component that handles the actual receipt and transmission of messages on a specific type of interface. Utilizing the interface communication emulator module, messages are received and reformatted into the standard scenario compliant structures. The Office cites col. 1, lines 55-58 of Hite as teaching an interface communication emulator module communicatively coupling the protocol-specific program level message traffic to the API core. However, Hite et al. describes at col. 1, lines 55-58 a dynamic protocol message generator to enable a scripting language capable of directly communicating on any TCP/IP network connection. Hite goes on to describe this dynamic protocol message generator at col. 51 wherein the primary goal of the dynamic protocol message generator is to make a scripting language such as VBScript or JavaScript capable of directly communicating on any TCP/IP network. As such, Hite does not describe an interface communication emulator module that handles the actual receipt and transmission of messages on a specific type of interface as disclosed and claimed by the present invention.

For the reasons cited above, Applicant believes that independent claim 1 is not anticipated by Hite et al. and is believed to be in condition for allowance.

Claims 2-30 are dependent upon claim 1, and are therefore allowable as a matter of law.

If the Office is not fully persuaded as to the merits of Applicant's position, or if an Examiner's Amendment would place the pending claims in condition for allowance, a telephone call to the undersigned at (727) 507-8558 is requested.

Very respectfully,

SMITH & HOPEN



By: \_\_\_\_\_

Molly L. Sauter  
15950 Bay Vista Drive, Suite 220  
Clearwater, FL 33760  
(727) 507-8558  
Agent for Applicant

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